

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

**JEFFERY HARVEY,
#A-51031,**

Plaintiff,

vs.

Case No. 16-cv-00345-JPG

**VIPEN SHAH,
CANTINA FOOD SERVICES,
SUZANN BAILEY,
DIRECTOR I.D.O.C.,
and WARDEN LASHBROOK,**

Defendants.

MEMORANDUM AND ORDER

GILBERT, District Judge:

On March 29, 2016, Plaintiff Jeffery Harvey filed a complaint (Doc. 1) pursuant to 42 U.S.C. § 1983, in order to challenge the decision to serve inmates a soy-based diet at Pinckneyville Correctional Center. Along with the complaint, Plaintiff filed a motion seeking leave to proceed *in forma pauperis* (“IFP motion”) (Doc. 2) without prepayment of the filing fee for this action. This Court denied Plaintiff’s IFP motion in an Order dated April 7, 2016 (Doc. 9), after determining that he is able to pay the filing fee.

Plaintiff was given thirty days to pay the full filing and docketing fee of \$400.00. Accordingly, the fee was due on or before May 9, 2016. The Court warned Plaintiff that failure to pay the fee by this deadline would result in dismissal of the action for failure to comply with an Order of this Court. (Doc. 9, p. 3) (citing FED. R. CIV. P. 41(b); *Ladien v. Astrachan*, 128 F.3d 1051 (7th Cir. 1997); *Johnson v. Kamminga*, 34 F.3d 466 (7th Cir. 1994)). The deadline has now passed, and Plaintiff has not paid the filing fee. He has also failed to

request an extension of the deadline for doing so. Plaintiff is in clear violation of the Court's Order (Doc. 9). The Court will not allow this matter to linger indefinitely.

IT IS HEREBY ORDERED that this action is **DISMISSED** without prejudice for failure to comply with an Order of this Court and for want of prosecution. *See id.* This dismissal shall **NOT** count as a "strike" under 28 U.S.C. § 1915(g). Plaintiff's obligation to pay the filing fee for this action was incurred at the time the action was filed, so the fee of \$400.00 remains due and payable. *See* 28 U.S.C. § 1915(b)(1); *Lucien v. Jockisch*, 133 F.3d 464, 467 (7th Cir. 1998).

IT IS ALSO ORDERED that all pending motions, including Plaintiff's motion for recruitment of counsel (Doc. 3) and motion for service of process at government expense (Doc. 4), are **DENIED** as **MOOT**.

The Clerk's Office is **DIRECTED** to close this case and enter a judgment accordingly.

IT IS SO ORDERED.

DATED: May 11, 2016

s/J. Phil Gilbert
District Judge
United States District Court